



THE NAVAJO NATION

OFFICE OF THE PRESIDENT & VICE PRESIDENT

FOR IMMEDIATE RELEASE

DEC. 15, 2009

CONTACT: GEORGE HARDEEN
COMMUNICATIONS DIRECTOR
OFFICE – 928-871-7917
CELL – 928-309-8532
pressoffice@opvp.org

Navajo Nation President Joe Shirley, Jr., returned to authority by permanent injunction issued by Window Rock District Court

WINDOW ROCK, Ariz. – Navajo Nation President Joe Shirley, Jr., was returned to authority at 6:34 p.m. Monday after a Window Rock District Court judge issued a permanent injunction against the Navajo Nation Council that placed him on administrative leave Oct. 26 – essentially declaring the law the council used null and void for all time.

Following a five-hour evidentiary hearing, District Judge Geraldine Benally ruled that the Navajo Nation Council and Speaker Lawrence T. Morgan acted beyond the scope of their authority when they attempted to place President Shirley on administrative leave, robbed Navajo voters of their chosen leader, and silenced their voice by silencing his.

“Because they acted outside the scope of their authority,” said Benjamin C. Runkle, one of the President’s attorneys, “the resolution placing the President on administrative leave was declared by the court to be null and void, and therefore unenforceable as a matter of law.”

As news of the court decision spread, the President gathered with about 25 supporters, members of staff and reporters at 8:30 p.m. at the President’s office.

“It comes from the heart when I say it’s good to see you,” President Shirley told them. “Thank you for having been there for me, my wife and my children, and certainly for the office of the people. We’ve gone through some very

trying and challenging times but as far as public office goes, politics, sometimes you have to go through some of these things to get at that which is good. And I believe we’ll be getting at that which is good tomorrow.”



Navajo Nation President Joe Shirley, Jr., speaks to supporters, staff and the press in his office at 8:30 p.m. Monday after District Court Judge Geraldine Benally issued a permanent injunction against the Navajo Nation Council that placed him on administrative leave Oct. 26 – essentially declaring the law the council used null and void for all time.

He was referring to Navajo voters deciding on two government reform initiative questions: whether to reduce the Navajo Nation Council from 88 to 24 delegates, and whether to give the President of the Navajo Nation line item veto authority.

“I have confidence we’re going to put two legislations on the books,” President Shirley said. “What’s unique about this legislation is this legislation is coming from the people, something in the history of the Navajo Nation government that’s never been done before. Never.”

Sen. Albert Hale, the President's lawyer in legal challenges the two initiatives faced, said all of these weeks of controversy and even the government reform election could have been prevented had Speaker Morgan and the council abided by the Aug. 13, 2008, memorandum of agreement he signed with President Shirley.

"If the Speaker and the council kept their words when they reached an agreement with the President, all of these could have been avoided as well as the litigation that has been very costly to both sides," he said.

Council Delegate Leonard Tsosie, who represents Pueblo Pintado, Torreon and Whitehorse Lake, said the court decision shows that the Navajo people's laws worked.

"We have a structure that is set up and stable," he said. "It just took a while but it's the Navajo concept of harmony. It got pushed but it's resilient and started pushing back to its position."

Mr. Runkle said that after hearing from the President's attorneys and the Office of Legislative Counsel, the court permanently prohibited all of the parties – meaning the Speaker and the council – from attempting to enforce the resolution that placed the President on leave.

It is possible the council could appeal the decision but Mr. Runkle said he did not believe the court's decision will be reversed.

"I feel confident in an appeal that the result will be the same," he said. "By the evidence, the council acted outside its authority and it can't cloak itself in sovereign immunity where it takes action in violation of the law and the dignity of the executive office."

President Shirley's attorneys – Paul K. Charlton, Mr. Runkle and Kiersten Murphy of the Gallagher & Kennedy Law Offices, and Michelle Dotson of the Office of the President and Vice President – argued that the council did not have the authority to place the President on administrative leave because the statute that it used conflicts with the separation of powers inherent to the three-branch form of government.

They said that the council also did not follow procedures under the law in order to enact the resolution. Because of that when it enacted this legislation, it falsely tried to call it "an emergency."

"Because they acted outside the scope of their authority, the resolution placing the President on administrative leave was declared by the court to be null and void, and therefore unenforceable as a matter of law."

– Attorney Benjamin C. Runkle

Further, it twice tried to punish the President for his government reform initiatives through legislation. The first attempt was when it tried to legislatively abolish the Office of the First Lady. When the legislation was brought before the Government Services Committee, the committee killed the legislation. The second attempt was when it tried to abolish the President's Executive Protection Detail but failed to submit it to the Government Services Committee as required by law.

"You can here see a clear intent of the Speaker's office to punish the President with legislation for his policies, to retaliate against him," Mr. Runkle said. "When a legislature tries to punish somebody outside the court system, they're acting outside the scope of their authority."

The attorneys also argued that under Navajo traditional and fundamental law, there is a due process right to have allegations against you and the charge be heard. The President should at least have had the opportunity to hear the allegations against him, but did not.

"In this case, by using these secret procedures, they effectively robbed the people of their chosen leader when they put him on administrative leave," Mr. Runkle said.

"They silenced his voice and he could no longer speak for those who elected him into office."

President Shirley expressed his appreciation to the law firm of Gallagher & Kennedy, and to his friend Paul K. Charlton for stepping forward to take the case on his behalf.

He said from the moment 48 council delegates acted to place him on leave, he believed they should not have done it, and that they did not do right.

"It should never have happened in the way that it has...because there's really nothing there to base it on," he said.

Nonetheless, he said he has been working throughout the six weeks of leave by visiting chapters to educate the public about the two government reform initiatives.

"We hung in there with the issue," he said. "Now I can continue as President of the Navajo Nation. We've been very diligent despite that which has been going on, in trying to put a couple of legislations from the people on the books. And I sincerely believe it's because we were working on that we've been put through what we've been put through."

###